

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMY WAGNER,

Defendant.

OPINION AND ORDER

15-cr-30-bbc

Defendant Amy Wagner is serving a ten-year sentence imposed on her on August 18, 2015, after she was convicted of possessing 50 grams or more of methamphetamine. She is presently incarcerated at a minimum security satellite camp in Greenville, Illinois and is due to be released on December 2, 2023.

On May 18, 2020, defendant filed a pro se motion for compassionate release, saying that she believed her hepatitis C and epilepsy put her at risk for COVID-19 infection if she remained incarcerated. I denied the motion in an order entered on June 19, 2020, finding that her medical records did not show that she had any active medical problems requiring medical attention and noting that there were no known cases of COVID-19 at the Greenville camp at that time. Dkt. #142. In a letter received by the court on June 29, 2020, which I will construe as a motion for reconsideration of my denial for compassionate release, defendant challenges the three reasons the government had identified for denying her compassionate release. Dkt. #143.

First, defendant disagrees with the government's assertion that she has failed to prove she is no longer a danger to the society. She says she has had no disciplinary actions since she has been incarcerated, she has voluntarily taken and successfully completed two drug treatment programs and she has been furloughed out to the community several times with no violations. Defendant is convinced that the programs she has taken have made her far better prepared to deal with the problems she may encounter in the future.

Second, defendant denies the government's statement that she has failed to prove that she is not in a safe environment, saying that shortly after she received that statement from the government, the warden reported a positive case of the virus. (The Bureau of Prisons reports that one inmate has tested positive for COVID-19 at Greenville. <https://www.bop.gov/coronavirus/index.jsp> (reported Jul. 27, 2020).) In defendant's opinion, more positive cases are bound to follow given the living conditions at the camp. Third, defendant denies the government's contention that she has failed to show extraordinary and compelling reasons warranting compassionate release, stressing that she has a history of hepatitis C, which the camp doctor did not even recognize when he reviewed her records.

It appears that defendant has made real progress in overcoming the drug problems that led to her criminal activity, arrest and imprisonment. Commendable as that is, however, it does not mean that she is entitled to compassionate release. Even though she has health problems, defendant has not shown that extraordinary and compelling reasons warrant a reduction in her sentence.

According to the Centers for Disease Control (CDC), neither hepatitis C nor epilepsy

are conditions that put an individual at an increased risk for severe illness from COVID-19. <https://www.cdc.gov/coronavirus/2019-cov/need-extra-precautions/index.html>. Although the CDC has said that people with liver disease *might* be at higher risk for severe illness from COVID-19 if their medical condition is not well controlled, id., a review of defendant's medical records shows that her hepatitis C appears to be inactive and under control. Despite the discovery of one case of COVID-19 at the Greenville camp, defendant has not shown that she is at particular risk of contracting the virus or developing a severe illness if she is infected. Therefore, defendant's motion for reconsideration will be denied.

ORDER

IT IS ORDERED that defendant Amy Wagner's motion for reconsideration, dkt. #143, is DENIED.

Entered this 28th day of July, 2020.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge